

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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November 12, 2009

Mr. Mark Sullivan
Housing & Redevelopment Manager
Community Development Department
City of San Bruno
567 El Camino Real
San Bruno, CA 94066

Dear Mr. Sullivan:

RE: Review of the City of San Bruno's Draft Housing Element

Thank you for submitting San Bruno's draft housing element received for review on September 14, 2009, with additional revisions on November 9, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on October 28, 2009 with you, Ms. Lisa Sanders, Contract Planner, and Ms. Melissa McMahon and Mr. Rajeev Bhatia, your consultants of Dyett Bhatia, facilitated the review.

San Bruno is commended for facilitating the development of 713 units affordable to lower- and moderate-income households on a former U.S. Navy site and for the recent update of the general plan promoting transit-oriented and mixed-use development. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). For example, the element must analyze the suitability and availability of identified sites. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department appreciates the cooperation and assistance of you, Ms. Sanders, Ms. McMahon, and Mr. Bhatia throughout the course of the review and is committed to assist San Bruno in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Raquel Medina, of our staff, at (916) 324-9629.

Sincerely,

A handwritten signature in cursive script that reads "Cathy E. Creswell".

Cathy E. Creswell
Deputy Director

Enclosure

APPENDIX

CITY OF SAN BRUNO

The following changes would bring San Bruno's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on the Department's website at www.hcd.ca.gov/hpd. Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at www.hcd.ca.gov/hpd/housing_element2/index.php, the Government Code addressing State housing element law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

San Bruno has a regional housing need allocation (RHNA) of 973 housing units, of which 382 are for lower-income households. To demonstrate the adequacy of identified sites and strategies, the element must include complete analyses, as follows:

Progress Towards the Regional Housing Need: The element lists 283 approved or constructed units as affordable to lower-income households (page 4-9). To credit these units toward the City's share of the regional housing need, the element must demonstrate the affordability of the units based on anticipated or actual rent and sale prices or other mechanisms establishing affordability in the planning period. The element notes the affordability of SNK 1 and 2 is based on Archstone 1 and 2, which are deed restricted developments, while SNK 1 and 2 are market-rate. The element does not describe anticipated rent and sale prices for SNK 1 and 2. In addition, the element credits the Pacific Bay Vistas project which is proposed for the preservation or redevelopment of 202 net units. The element lists 62 deed-restricted units in the proposed project; however, it is unclear whether these are new or existing units. For non-deed-restricted units, the element should clarify the anticipated rent or sale prices for the Pacific Bay Vistas project. To credit any existing units toward the City's regional housing need, the element must demonstrate compliance with Government Code Section 65583.1. For further assistance, please see the Department's website at http://www.hcd.ca.gov/codes/bills/ab_438_chk.doc.

Suitability of Non-Vacant Sites: The element must evaluate the extent to which existing uses may impede additional residential development. Sites 6, 7, 10, and 15 list very general (e.g., budget motel, used car lot, bank, strip retail, etc.) information about existing uses or existing structures. The element should describe and evaluate the extent existing uses may impact redevelopment potential in the planning period. For example, the inventory could generally describe whether uses are operational, marginal or discontinued, the condition of the structure, or any expressed interest in redevelopment. Refer to the sample analysis on the *Building Blocks*' website at http://www.hcd.ca.gov/hpd/housing_element2/SIA_zoning.php#non_vacant.

Residential Capacity for Non-Residentially Zoned Sites: Many identified sites allow non-residential uses. For sites allowing non-residential uses, the residential capacity analysis should account for the potential development of non-residential uses. Projected residential development capacity should not, for example, assume residential-only development of all sites allowing non-residential uses (page 4-14).

Alternative Adequate Sites: The element credits rehabilitated units toward the regional housing need (page 4-12). To credit rehabilitated units toward the City's RHNA, the element must demonstrate compliance with the requirements in Government Code Section 65583.1. For example, the element must demonstrate the units were determined to be unfit for human habitation and whether tenants were given the right to reoccupy the units. To assist in meeting this requirement, please see the Department's AB 438 checklist (see link on previous page).

Second Units: The element anticipates the construction or legalization of four units per year affordable to lower-income households. To credit the legalization of existing second units toward the City's RHNA, the element must indicate the basis for establishing that the units were not part of the existing stock for the regional housing need projection baseline. In addition, the element must demonstrate the anticipated affordability of second units based on rent and sale prices.

Emergency Shelters: While the element includes Program 6-D to permit emergency shelters in the TOD zone, the Program also proposes to limit shelters to ten beds or less. This size limit does not provide a realistic opportunity for the development of emergency shelters. The element must discuss the appropriateness of the ten-bed maximum including its impact on the development feasibility of emergency shelters and revise Program 6-D to permit larger shelters without discretionary review. See the Department's Chapter 633, Statutes of 2007 (SB 2), technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Below Market-Rate (BMR) Housing: The draft element notes San Bruno has implemented an inclusionary Below Market-Rate ordinance requiring new residential developments of 10 or more to provide a minimum of 15 percent of units to very low-, low- and moderate-income households or require an in-lieu fee (page 3-15). While revisions submitted on November 9, 2009 include a description of in-lieu fees and incentives the City may provide developers, the element must still analyze impacts on timing, cost and supply of housing. This is particularly important given current market

conditions and the cumulative impact of local regulations. In addition, while the element identifies two projects that have contributed in-lieu fees, it should describe the effectiveness of the in-lieu option, including decision-making criteria. The element should also analyze "like-kind" requirements and describe any flexibility for meeting the requirement.

Permit Processing and Procedures: While the element describes typical processing times, it must specifically describe and analyze the City's permit processing and approval procedures for typical single- and multi-family projects, including type of permit, level of review, and decision-making criteria for impacts on approval certainty. For more information, see the *Building Blocks'* website at http://www.hcd.ca.gov/hpd/housing_element2/CON_permits.php.

B. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in Finding A-1, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, this program may need to be revised:

Emergency Shelters: As noted in Finding A-1, Program 6-D (page 15-26) will likely need revision to comply with SB 2. See the Department's SB 2 technical assistance memo at http://www.hcd.ca.gov/hpd/sb2_memo050708.pdf.

2. *The housing element shall contain programs which "address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Section 65583(c)(3)).*

As noted in Finding A-2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. In addition:

Program 2-B: Complete Downtown and Transit Corridors Plan: In addition to evaluating height limits, the Program should commit to when the City will address impacts identified.

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Program 2-F: Ensure Compatibility of New Housing with Neighborhood Character: In addition to developing design standards to ensure compatibility, the Program could commit to ensure development standards and processing procedures promote applicant certainty and do not unduly constrain residential development.

C. AB 162 – Flood Management

San Bruno should also note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 207 [AB 162]) which requires amendment of the safety and conservation elements of the general plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009. For additional information, please refer to the Department's website at http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf.